

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$61,356.23 SEIZED FROM FIRST  
NATIONAL BANK ACCOUNTS  
XXXX4755 AND XX2211,

Defendants.

Misc. Case: 22-mc-149

MEMORANDUM OF LAW IN  
SUPPORT OF UNITED STATES'  
MOTION TO EXTEND TIME TO FILE  
A CIVIL FORFEITURE COMPLAINT  
OR A FORFEITURE ALLEGATION

Plaintiff, the United States of America ("the Government"), files the following memorandum of law in support of its motion to extend time to file a civil forfeiture complaint or a forfeiture allegation in the indictment alleging forfeiture as to the above-entitled property.

1. There is a criminal case involving relating to the seizure of the above-entitled defendant property. *See United States of America v. Antyon Hamilton Hogan, Jr., et. al*, CR 22-40029 (D.S.D.).

2. On June 14, 2022, the Department of the Treasury sent a notice to Spire Credit Union, advising them of its right to file a claim for the seized defendant property. Exhibit 1 to Bengford Declaration. A claim letter from Spire Credit Union dated July 6, 2022, was received for the above-listed defendant property. Bengford Declaration Exhibit 2.

3. Pursuant to a seizure of bank accounts on April 19, 2022, the proceeds seized were taken into evidence.

4. The Government has opened a file in relation to the above-entitled referral for judicial forfeiture based upon Spire Credit Union's claim and seeks additional time, 60 days, to determine whether to proceed with a civil forfeiture case, work to resolve Spire Credit Union's claim, or file an indictment with a forfeiture allegation.

### **LEGAL ANALYSIS**

Title 18, section 983(a)(3)(A)-(C) states:

(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

(B) If the Government does not –

(i) file a complaint for forfeiture or return the property, in accordance with subparagraph (A); or

(ii) before the time for filing a complaint has expired –

(I) obtain a criminal indictment containing an allegation that the property is subject to forfeiture; and

(II) take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute, the Government shall promptly release the property pursuant to regulations promulgated by the Attorney General, and may not take any further action to effect the civil forfeiture of such property in connection with the underlying offense.

(C) In lieu of, or in addition to, filing a civil forfeiture complaint, the Government may include a forfeiture allegation in a criminal indictment. If criminal forfeiture is the only forfeiture proceeding commenced by the Government, the Government's right to continued possession of the property shall be governed by the applicable criminal forfeiture statute.

The deadline to file a civil forfeiture complaint for the defendant property is on or about October 4, 2022, which is 90 days from the date Spire Credit Union dated their claim, July 6, 2022. The undersigned is assuming receipt as of July 6, 2022, in calculating the deadline. Under 18 U.S.C. § 983(a)(3)(A)-(C), unless the time is extended by the Court for good cause, the United States is required to file a complaint for forfeiture against the property or to obtain an indictment alleging that the property is subject to forfeiture.

Given the undersigned's current schedule and workload, she needs additional time to evaluate if the United States should proceed with a civil forfeiture complaint and if so, additional time is needed to prepare and file the complaint, time to see if the claim filed by Spire Credit Union can be resolved, and time to see if a forfeiture allegation in the indictment is needed. The United States asserts that there is good cause to extend the deadline based upon the undersigned's current schedule and workload.

The United States seeks an extension of 60 days to file a civil forfeiture complaint as to the defendant property. If the time is not extended and the United State is required to return the property to the claimant, there is no assurance that the property will be available for forfeiture.

### **CONCLUSION**

For the foregoing good cause, the United States respectfully requests that the Court extend the period in which the United States is required to file a civil forfeiture complaint against the property for 60 days, until December 4, 2022

(noting that the 60<sup>th</sup> day falls on a Sunday so that pursuant to Federal Rule of Civil Procedure 6(a)(1)(C) the deadline would be the following Monday).

Date: October 4, 2022.

ALISON J. RAMSDELL  
United States Attorney



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